

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1860 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHARDANAGAR COOP HSG SOC LTD

Versus

STATE OF GUJARAT

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Appearance:

MR MK VAKHARIA for Petitioners

MR KT DAVE for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/03/98

ORAL JUDGMENT

The petitioner No.1, Shardanagar Cooperative Housing Society Ltd., Kalol, District Mehsana, and the petitioner No.2, its member, by this Special Civil Application challenge the orders, annexure 'A' dated 8th September 1984 of the Collector, Mehsana, and annexure 'B' dated 24th July 1985 of the State Government, under which the order, annexure 'A' of the Collector, Mehsana,

has been confirmed.

2. Under the order annexure 'A', the Collector, Mehsana, ordered to remove the construction raised by the petitioner-society on the margin land of the society, i.e. on the land of Survey No.585 in the sim of Kalol, admeasuring 57.80 sq.mt. On appeal of the petitioner, that order has been confirmed under the order annexure 'B' by the State Government. The learned counsel for the petitioner has fairly admitted that the construction on 57.80 sq.mt. of margin land of the society has been put by the society without permission of the competent authority. So the construction put by the petitioner on the marginal land of the society without permission of the competent authority was illegal and as such, the Collector, Mehsana, as well as the State Government have not committed any error in case that construction has been ordered to be removed. Further, from the facts of the case, it comes out that this construction has been put by the petitioner-society violating the Line Control Rules. The learned counsel for the petitioners admitted that this is a 'Kutchha' construction and the construction which has been made is used for society's office as well as for storing purpose. If that is the only use to which this construction has been put to, and otherwise also, I do not find that by removal of this construction, any prejudice will be caused to the petitioner-society. Moreover, the construction which has been made on the margin land of the society as well as in violation of the Line Control Rules, cannot be allowed to stand.

3. Taking into consideration the totality of the facts of this case, I do not find any error, much less any illegality in the orders passed by the authorities below which call for any interference of this Court. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief granted by this Court stands vacated. No order as to costs.

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(sunil)